

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

07/18/2002

CLERK OF THE COURT
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

LC 2002-000117

FILED: _____

STATE OF ARIZONA

ROBERT KENT MCCARTHY

v.

DAVID MONROE CURRELL

DAVID MONROE CURRELL
21008 N 23RD AVE #205
PHOENIX AZ 85027-0000

PHX CITY MUNICIPAL COURT
REMAND DESK CR-CCC

MINUTE ENTRY

PHOENIX CITY COURT

Cit. No. 6122242

Charge: 2. NO MANDATORY INSURANCE

DOB: 02/13/43

DOC: 02/04/01

This Court has jurisdiction of this appeal pursuant to the Arizona Constitution Article VI, Section 16, and A.R.S. Section 12-124(A).

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

07/18/2002

CLERK OF THE COURT
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

LC 2002-000117

This matter has been under advisement without oral argument and the Court has considered and reviewed the record of the proceedings from the Phoenix City Court, exhibits made of record and the Memoranda submitted by the parties.

Appellant, David Monroe Currell, was charged with No Mandatory Insurance, a civil traffic violation in violation of A.R.S. Section 28-4135(C). Appellant claims that he was denied his right to a trial by jury. This appears to be a case of first impression involving A.R.S. Section 28-4135(C). This Court was unable to discover any reported cases in Arizona dealing with the issue of a right to jury trial to persons charged with No Mandatory Insurance.

The United States Constitution requires that if a crime is punishable by more than six (6) months of incarceration, it is not a petty offense and the accused must be afforded the right to a jury trial. Lewis v. United States, 518 U.S. 322, 116 S.Ct. 2163, 135 L.Ed.2d 590 (1996); Blanton v. North Las Vegas, 489 U.S. 538, 109 S.Ct. 1289, 103 L.Ed.2d 550 (1989). Arizona has, in fact, extended the right of a jury trial much further than guaranteed by the United States Constitution. State ex rel. McDougall v. Strohson, 190 Ariz. 120, 945 P.2d 1251 (1997). The Arizona Supreme Court in McDougall, Id., listed four factors to evaluate in determining the right to a jury trial in the State of Arizona. The first three factors are found in Rothweiler v. Supreme Court, 100 Ariz. 37, 410 P.2d 479 (1996):

1. The length of possible incarceration;
2. The moral quality of the act charged (sometimes referred to as the "moral turpitude" issue;
3. Its relationship to common law crimes.

The fourth consideration comes from State ex rel. v. Dean v. Dolny, 161 Ariz. 297, 778, P.2d 1193 (1989) and requires that the court evaluate whether additional serious or grave consequences might flow from the conviction.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

07/18/2002

CLERK OF THE COURT
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

LC 2002-000117

It is not possible to be incarcerated after a conviction for violating A.R.S. Section 28-4135(C). This offense is a civil traffic violation, not a criminal nor criminal traffic offense.

An evaluation of the moral quality of the act charged requires this Court to consider those facts which established Appellant's conviction. Appellant failed to have mandatory insurance and provide proof to the arresting officer. Appellant was not charged with a crime involving dishonesty or fraud or any other type of crime involving a deficient moral character. This Court concludes the crime is not of such a moral quality that a jury trial would be required.

In considering the relationship of the crime, No Mandatory Insurance to common law crimes, this Court finds no common law antecedents.

Finally, this Court concludes that there are no sufficiently grave collateral consequences of a civil judgment for No Mandatory Insurance that would entitle Appellant to a jury trial.

This Court, therefore, concludes that the trial court correctly denied Appellant's request for a jury trial in this case.

For all of the reasons explained,

IT IS ORDERED affirming the judgment of responsibility and sanction ordered by the Phoenix City Court.

IT IS FURTHER ORDERED remanding this matter back to the Phoenix City Court for all further and future proceedings in this case.